

Calendar No. 973

110TH CONGRESS
2D SESSION**S. 390**

To direct the exchange of certain land in Grand, San Juan, and Uintah
Counties, Utah, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 25, 2007

Mr. BENNETT (for himself and Mr. HATCH) introduced the following bill;
which was read twice and referred to the Committee on Energy and Nat-
ural Resources

SEPTEMBER 16, 2008

Reported by Mr. BINGAMAN, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

A BILL

To direct the exchange of certain land in Grand, San Juan,
and Uintah Counties, Utah, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Utah Recreational
5 Land Exchange Act of 2007”.

1 **SEC. 2. FINDINGS AND PURPOSES.**

2 (a) FINDINGS.—Congress finds that—

3 (1) the area surrounding the Colorado River in
 4 Grand and San Juan Counties, Utah, and Dinosaur
 5 National Monument and the Book Cliffs in Uintah
 6 County, Utah, contains nationally recognized scenic
 7 vistas, significant archaeological and historic re-
 8 sources, valuable wildlife habitat, and outstanding
 9 opportunities for public recreation that are enjoyed
 10 by hundreds of thousands of people annually;

11 (2) the State of Utah owns multiple parcels of
 12 land in the area that were granted to the State
 13 under the Act of July 16, 1894 (28 Stat. 107, chap-
 14 ter 138), to be held in trust for the benefit of the
 15 public school system and other public institutions of
 16 the State;

17 (3) the parcels of State trust land are largely
 18 scattered in checkerboard fashion amid the Federal
 19 land comprising the area of the Colorado River cor-
 20 ridor, the Dinosaur National Monument, and the
 21 Book Cliffs;

22 (4) the State trust land in the area of the Colo-
 23 rado River corridor, Dinosaur National Monument,
 24 and the Book Cliffs includes significant natural and
 25 recreational features, including—

1 (A) portions of Westwater Canyon of the
2 Colorado River;

3 (B) the nationally recognized Kokopelli
4 and Slickrock trails;

5 (C) several of the largest natural rock
6 arches in the United States;

7 (D) multiple wilderness study areas and
8 proposed wilderness areas; and

9 (E) viewsheds for Arches National Park
10 and Dinosaur National Monument;

11 (5) the large presence of State trust land lo-
12 cated in the Colorado River corridor, Dinosaur Na-
13 tional Monument, and the Book Cliffs area makes
14 land and resource management in the area more dif-
15 ficult, costly, and controversial for the United States
16 and the State of Utah;

17 (6) although the State trust land was granted
18 to the State to generate financial support for public
19 schools in the State through the sale or development
20 of natural resources, development of those resources
21 in the Colorado River corridor, Dinosaur National
22 Monument, and the Book Cliffs area may be incom-
23 patible with managing the area for recreational, nat-
24 ural, and scenic resources;

1 (7) the United States owns land and interests
 2 in land in other parts of the State of Utah that can
 3 be transferred to the State in exchange for the State
 4 trust land without jeopardizing Federal management
 5 objectives or needs; and

6 (8) it is in the public interest to exchange feder-
 7 ally owned land in the State for the Utah State trust
 8 land located in the Colorado River Corridor, Dino-
 9 saur National Monument, and the Book Cliffs area,
 10 on terms that are fair to the United States and the
 11 State of Utah.

12 (b) PURPOSE.—It is the purpose of this Act to direct,
 13 facilitate, and expedite the exchange of certain Federal
 14 land and non-Federal land in the State to further the pub-
 15 lic interest by—

16 (1) exchanging Federal land that has limited
 17 recreational and conservation resources; and

18 (2) acquiring State trust land with important
 19 recreational, scenic, and conservation resources for
 20 permanent public management and use.

21 **SEC. 3. DEFINITIONS.**

22 In this Act:

23 (1) FEDERAL LAND.—The term “Federal land”
 24 means the land located in Grand, San Juan, and

1 Uintah Counties, Utah, that is identified on the
2 maps as—

3 (A) “BLM Subsurface only Proposed for
4 Transfer to State Trust Lands”;

5 (B) “BLM Surface only Proposed for
6 Transfer to State Trust Lands”; and

7 (C) “BLM Lands Proposed for Transfer to
8 State Trust Lands”.

9 (2) ~~GRAND COUNTY MAP.~~—The term “Grand
10 County Map” means the map prepared by the Bu-
11 reau of Land Management entitled “Utah Rec-
12 reational Land Exchange Act Grand County” and
13 dated ~~[_____]~~.

14 (3) ~~MAPS.~~—The term “maps” means the Grand
15 County Map and the Uintah County Map.

16 (4) ~~NON-FEDERAL LAND.~~—The term “non-Fed-
17 eral land” means the land in Grand, San Juan, and
18 Uintah Counties, Utah, that is identified on the
19 maps as—

20 (A) “State Trust Land Proposed for
21 Transfer to BLM”; and

22 (B) “State Trust Minerals Proposed for
23 Transfer to BLM”.

24 (5) ~~SECRETARY.~~—The term “Secretary” means
25 the Secretary of the Interior.

1 (6) STATE.—The term “State” means the State
 2 of Utah, as trustee under the Utah State School and
 3 Institutional Trust Lands Management Act (Utah
 4 Code Ann. ~~53C-1-101~~ et seq.).

5 (7) UINTAH COUNTY MAP.—The term “Uintah
 6 County Map” means the map prepared by the Bu-
 7 reau of Land Management entitled “Utah Rec-
 8 reational Land Exchange Act Uintah County” and
 9 dated ~~1~~_____1.

10 **SEC. 4. EXCHANGE OF LAND.**

11 (a) IN GENERAL.—Notwithstanding any other provi-
 12 sion of law, if, not later than 30 days after the date of
 13 enactment of this Act, the State offers to convey to the
 14 United States title to the non-Federal land, the Secretary
 15 shall—

16 (1) accept the offer; and

17 (2) on receipt of acceptable title to the non-
 18 Federal land and subject to valid existing rights,
 19 convey to the State all right, title, and interest of
 20 the United States in and to the Federal land.

21 (b) CONVEYANCE OF PARCELS IN PHASES.—

22 (1) IN GENERAL.—Notwithstanding that ap-
 23 praisals for all of the parcels of Federal land and
 24 non-Federal land may not have been completed
 25 under section 5, parcels of the Federal land and

non-Federal land may be exchanged under subsection (a) in 3 phases beginning on the date on which the appraised values of the parcels included in the the applicable phase are approved under section 5(b)(5).

(2) PHASES.—The 3 phases referred to in paragraph (1) are—

(A) phase 1, consisting of the non-Federal land identified as “phase one” land on the Grand County Map;

(B) phase 2, consisting of the non-Federal land identified as “phase two” land on the Grand County Map and the Uintah County Map; and

(C) phase 3, consisting of any remaining non-Federal land that is not identified as “phase one” land or “phase two” land on the Grand County Map or the Uintah County Map.

(3) NO AGREEMENT ON EXCHANGE.—If agreement has not been reached with respect to the exchange of an individual parcel of Federal land or non-Federal land, the Secretary and the State may agree to set aside the individual parcel to allow the exchange of the other parcels of Federal land and non-Federal land to proceed.

1 (c) APPURTENANT WATER RIGHTS.—Any convey-
 2 ance of a parcel of Federal land or non-Federal land under
 3 this Act shall include the conveyance of water rights ap-
 4 purtenant to the parcel conveyed.

5 (d) TIMING.—

6 (1) IN GENERAL.—Except as provided in para-
 7 graphs (2) and (3), the exchange of land authorized
 8 by subsection (a) shall be completed not later than
 9 330 days after the date on which the State makes
 10 the Secretary an offer to convey the non-Federal
 11 land under that subsection.

12 (2) EXCEPTION.—The deadline established
 13 under paragraph (1) shall not apply to a parcel of
 14 land, the value of which is being determined under
 15 section 5(b)(6)(C).

16 (3) EXTENSION.—The Secretary and the State
 17 may mutually agree to extend the deadline specified
 18 in paragraph (1).

19 **SEC. 5. EXCHANGE VALUATION, APPRAISALS, AND EQUALI-**
 20 **ZATION.**

21 (a) EQUAL VALUE EXCHANGE.—The value of the
 22 Federal land and non-Federal land to be exchanged under
 23 this Act—

24 (1) shall be equal; or

1 (2) shall be made equal in accordance with sub-
2 section (e).

3 ~~(b) APPRAISALS.—~~

4 ~~(1) IN GENERAL.—~~The value of the Federal
5 land and the non-Federal land shall be determined
6 by appraisals conducted in accordance with—

7 ~~(A) section 206(d) of the Federal Land~~
8 ~~Policy and Management Act of 1976 (43 U.S.C.~~
9 ~~1716(d)); and~~

10 ~~(B) section 2201.3 of title 43, Code of~~
11 ~~Federal Regulations (or successor regulations).~~

12 ~~(2) SELECTION OF APPRAISER.—~~The appraisals
13 of the Federal land and non-Federal land shall be
14 conducted by 1 or more independent third-party ap-
15 praisers selected jointly by the Secretary and the
16 State.

17 ~~(3) COSTS.—~~

18 ~~(A) IN GENERAL.—~~The Secretary and the
19 State shall share third-party appraisal costs
20 equally.

21 ~~(B) ADJUSTMENT.—~~The Secretary and the
22 State may agree to adjust the relative value of
23 the Federal land and non-Federal land to be ex-
24 changed under this Act if the Secretary or the

1 State has paid a disproportionate share of the
 2 third-party appraisal costs:

3 ~~(4) VALUATION OF UNLEASED FEDERAL LAND;~~
 4 ~~REVENUE SHARING.—~~

5 (A) IN GENERAL.—Any parcel of Federal
 6 land that, as of the date of appraisal, is not
 7 leased under the Mineral Leasing Act (30
 8 U.S.C. 181 et seq.), shall be appraised without
 9 regard to the presence of minerals subject to
 10 lease under that Act, if, after conveyance of the
 11 applicable parcel to the State, the State agrees
 12 to pay to the United States—

13 (i) 50 percent of any bonus or rental
 14 payments (in the form of money or other
 15 consideration) that the State receives for
 16 the disposition of any interest in the min-
 17 erals after the date of conveyance; and

18 (ii) an amount equal to—

19 (I) the fraction of gross proceeds
 20 from mineral production (in the form
 21 of money or other consideration) to
 22 which the United States would have
 23 been entitled as a production royalty
 24 if the land had been—

1 (aa) retained by the United
2 States; and

3 (bb) leased under the provi-
4 sions of that Act in effect on the
5 date of this Act; minus

6 (H) the portion of production
7 royalties that would otherwise be pay-
8 able to the State under section 35 of
9 the Mineral Leasing Act (30 U.S.C.
10 191).

11 (B) OBLIGATION AS COVENANT.—The obli-
12 gation of the State to pay bonus, rental, and
13 royalty revenues to the United States under
14 subparagraph (A) shall be a permanent cov-
15 enant running with the applicable parcel of
16 Federal land conveyed to the State.

17 (5) REVIEW AND APPROVAL.—

18 (A) IN GENERAL.—Not later than 120
19 days after the date on which the appraiser is
20 selected under paragraph (2), the appraiser
21 shall submit to the Secretary and the State a
22 copy of the completed appraisals for review.

23 (B) APPROVAL OR DISAPPROVAL.—Not
24 later than 90 days after the date of receipt of
25 an appraisal under subparagraph (A), the Sec-

retary and the State shall independently approve or disapprove the appraisal.

~~(6) DETERMINATION OF VALUE.—~~

~~(A) DETERMINATION BY SECRETARY AND STATE.—~~If the Secretary and the State are unable to agree on the value of a parcel of land, the value of the parcel may be determined by the Secretary and the State in accordance with paragraphs (2) and (4) of section 206(d) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(d)).

~~(B) VALUATION OF LEASED FEDERAL LAND.—~~

~~(i) IN GENERAL.—~~If value is attributed to any parcel of Federal land because of the presence of minerals subject to leasing under the Mineral Leasing Act (30 U.S.C. 191 et seq.), and the parcel is subject to an existing lease under that Act, the value of the parcel shall be equal to the value of the parcel as determined under this section, as adjusted under clause (ii).

~~(ii) ADJUSTMENT.—~~

~~(I) IN GENERAL.—~~The value of the parcel subject to a lease under

1 clause (i) shall be reduced by the per-
 2 centage of the Federal revenue shar-
 3 ing obligation under section 35(a) of
 4 the Mineral Leasing Act (30 U.S.C.
 5 191(a)).

6 (H) NO PROPERTY RIGHT.—An
 7 adjustment under subclause (I) shall
 8 not be considered to be a property
 9 right of the State.

10 (C) DETERMINATION BY COURT.—

11 (i) IN GENERAL.—Notwithstanding
 12 any other provision of law, if the Secretary
 13 and the State have not agreed on the value
 14 of a parcel by the date that is 1 year after
 15 the date of enactment of this Act, a Fed-
 16 eral district court (including the United
 17 States District Court for the District of
 18 Utah, Central Division) shall have jurisdic-
 19 tion to determine the value of the parcel.

20 (ii) LIMITATION.—An action to deter-
 21 mine the value of a parcel under clause (i)
 22 shall be brought not earlier than 1 year,
 23 but not more than 3 years, after the date
 24 of enactment of this Act.

25 (D) AVAILABILITY OF APPRAISALS.—

1 (i) ~~IN GENERAL.~~—All final appraisals,
 2 appraisal reviews, and determinations of
 3 value for land to be exchanged under this
 4 Act shall be available for public review at
 5 the Utah State Office of the Bureau of
 6 Land Management at least 30 days before
 7 the conveyance of the applicable parcels.

8 (ii) ~~PUBLICATION.~~—The Secretary
 9 shall publish in a newspaper of general cir-
 10 culation in Salt Lake County, Utah, a no-
 11 tice that the appraisals are available for
 12 public inspection.

13 (c) ~~EQUALIZATION OF VALUES.~~—

14 (1) ~~SURPLUS OF NON-FEDERAL LAND.~~—If after
 15 completion of the appraisal and dispute resolution
 16 process under subsection (b), the value of the non-
 17 Federal land exceeds the value of the Federal land—

18 (A) the Secretary may, to the extent con-
 19 sistent with other applicable laws (including
 20 regulations), offer to convey to the State, in
 21 partial exchange for the non-Federal land, any
 22 Federal land in the State that—

23 (i) is mutually selected by the Sec-
 24 retary and the State;

1 (ii) the Secretary has identified as
 2 suitable for disposal in a resource manage-
 3 ment plan prepared under the Federal
 4 Land Policy and Management Act of 1976
 5 (43 U.S.C. 1701 et seq.); or

6 (B) the State, after consultation with the
 7 Secretary, may remove parcels of non-Federal
 8 land from the exchange until the value of the
 9 Federal land and non-Federal land is equal.

10 (2) SURPLUS OF FEDERAL LAND.—If after
 11 completion of the appraisal and dispute resolution
 12 process under subsection (b), the value of the Fed-
 13 eral land exceeds the value of the non-Federal land,
 14 the value of the Federal land and non-Federal land
 15 may be equalized by—

16 (A) the Secretary, after consultation with
 17 the State, removing parcels of Federal land
 18 from the exchange until the value is equal; or

19 (B) the Secretary and the State adding ad-
 20 ditional State trust land to the non-Federal
 21 land, if—

22 (i) the additional land has been ap-
 23 praised in accordance with an ongoing
 24 Federal acquisition process or program;
 25 and

1 (ii) the appraised value (as deter-
 2 mined under clause (i)) has been accepted
 3 by the Secretary.

4 ~~(3) NOTICE AND PUBLIC INSPECTION.—~~

5 ~~(A) IN GENERAL.—~~If the Secretary and
 6 the State determine to add or remove land from
 7 the exchange, the Secretary shall—

8 (i) publish in a newspaper of general
 9 circulation in Salt Lake County, Utah, a
 10 notice that identifies when and where a re-
 11 vised exchange map will be available for
 12 public inspection; and

13 (ii) transmit to the Committee on En-
 14 ergy and Natural Resources of the Senate
 15 and the Committee on Resources of the
 16 House of Representatives a copy of the re-
 17 vised exchange map.

18 ~~(B) LIMITATION.—~~The Secretary and the
 19 State shall not add or remove land from the ex-
 20 change until at least 20 days after the date on
 21 which the notice is published under subpara-
 22 graph ~~(A)(i)~~ and the map is transmitted under
 23 subparagraph ~~(A)(ii)~~.

24 ~~(d) RESOURCE REPORT.—~~

1 (1) IN GENERAL.—With respect to each parcel
 2 of Federal land to be conveyed to the State, the Sec-
 3 retary shall prepare a report, based on resource in-
 4 ventories and information in existence on the date
 5 on which the report is prepared, that identifies any
 6 significant resource values, issues, or management
 7 concerns associated with the parcel.

8 (2) NOTICE AND INSPECTION.—A report shall
 9 be subject to the public notice and inspection in ac-
 10 cordance with subsection (b)(6)(D).

11 **SEC. 6. STATUS AND MANAGEMENT OF LAND AFTER EX-**
 12 **CHANGE.**

13 (a) ADMINISTRATION OF NON-FEDERAL LAND.—

14 (1) IN GENERAL.—Subject to paragraph (2)
 15 and in accordance with section 206(e) of the Federal
 16 Land Policy and Management Act of 1976 (43
 17 U.S.C. 1716(e)), the non-Federal land acquired by
 18 the United States under this Act shall become part
 19 of, and be managed as part of, the Federal adminis-
 20 trative unit or area in which the land is located.

21 (2) MINERAL LEASING AND OCCUPANCY.—

22 (A) IN GENERAL.—Subject to valid exist-
 23 ing rights, the non-Federal land acquired by the
 24 United States under this Act shall be with-
 25 drawn from the operation of the mineral leasing

1 and mineral material disposal laws until the
2 later of—

3 (i) the date that is 2 years after the
4 date of enactment of this Act; or

5 (ii) the date on which the Record of
6 Decision authorizing the implementation of
7 the applicable resource management plans
8 under section 202 of the Federal Land
9 Policy and Management Act of 1976 (43
10 U.S.C. 1712) is signed.

11 (B) EXCEPTION.—Any land identified on
12 the maps as “Withdrawal Parcels” is with-
13 drawn from the operation of the mineral leasing
14 and mineral material disposal laws.

15 ~~(3) RECEIPTS.—~~

16 ~~(A) IN GENERAL.—Any receipts derived~~
17 ~~from the non-Federal land acquired under this~~
18 ~~Act shall be paid into the general fund of the~~
19 ~~Treasury.~~

20 ~~(B) APPLICABLE LAW.—Mineral receipts~~
21 ~~from the non-Federal land acquired under this~~
22 ~~Act shall not be subject to section 35 of the~~
23 ~~Mineral Leasing Act (30 U.S.C. 191).~~

24 ~~(b) WITHDRAWAL OF FEDERAL LAND PRIOR TO EX-~~
25 ~~CHANGE.—Subject to valid existing rights, during the pe-~~

1 riad beginning on the date of enactment of this Act and
 2 ending on the earlier of the date that is 3 years after the
 3 date of enactment of this Act or the date on which the
 4 Federal land is conveyed under this Act, the Federal land
 5 is withdrawn from—

6 (1) disposition (other than disposition under
 7 section 4) under the public land laws;

8 (2) location, entry, and patent under the mining
 9 laws; and

10 (3) the operation of—

11 (A) the mineral leasing laws;

12 (B) the Geothermal Steam Act of 1970

13 (30 U.S.C. 1001 et seq.); and

14 (C) the first section of the Act of July 31,

15 1947 (commonly known as the “Materials Act

16 of 1947”) (30 U.S.C. 601).

17 (e) GRAZING PERMITS.—

18 (1) IN GENERAL.—If land acquired under this
 19 Act is subject to a lease, permit, or contract for the
 20 grazing of domestic livestock in effect on the date of
 21 acquisition, the person or entity acquiring the land
 22 shall allow the grazing to continue for the remainder
 23 of the term of the lease, permit, or contract, subject
 24 to the related terms and conditions of user agree-
 25 ments, including permitted stocking rates, grazing

1 fee levels, access rights, and ownership and use of
 2 range improvements.

3 ~~(2) RENEWAL.~~—To the extent allowed by Fed-
 4 eral or State law, on expiration of any grazing lease,
 5 permit, or contract described in paragraph (1), the
 6 holder of the lease, permit, or contract shall be enti-
 7 tled to a preference right to renew the lease, permit,
 8 or contract.

9 ~~(3) CANCELLATION.~~—

10 ~~(A) IN GENERAL.~~—Nothing in this Act
 11 prevents the Secretary or the State from can-
 12 ceeling or modifying a grazing permit, lease, or
 13 contract if the land subject to the permit, lease,
 14 or contract is sold, conveyed, transferred, or
 15 leased for nongrazing purposes by the party.

16 ~~(B) LIMITATION.~~—Except to the extent
 17 reasonably necessary to accommodate surface
 18 operations in support of mineral development,
 19 the Secretary or the State shall not cancel or
 20 modify a grazing permit, lease, or contract be-
 21 cause the land subject to the permit, lease, or
 22 contract has been leased for mineral develop-
 23 ment.

24 ~~(4) BASE PROPERTIES.~~—If land conveyed by
 25 the State under this Act is used by a grazing per-

1 mittee or lessee to meet the base property require-
 2 ments for a Federal grazing permit or lease, the
 3 land shall continue to qualify as a base property for
 4 the remaining term of the lease or permit and the
 5 term of any renewal or extension of the lease or per-
 6 mit.

7 (d) HAZARDOUS MATERIALS.—

8 (1) IN GENERAL.—The Secretary and, as a con-
 9 dition of the exchange, the State shall make avail-
 10 able for review and inspection any record relating to
 11 hazardous materials on the land to be exchanged
 12 under this Act.

13 (2) COSTS.—The costs of remedial actions re-
 14 lating to hazardous materials on land acquired
 15 under this Act shall be paid by those entities respon-
 16 sible for the costs under applicable law.

17 (e) PROVISIONS RELATING TO FEDERAL LAND.—

18 The exchange of land under this Act shall be considered
 19 to be in the public interest under section 206(a) of the
 20 Federal Land Policy and Management Act of 1976 (43
 21 U.S.C. 1716(a)).

22 **SEC. 7. AUTHORIZATION OF APPROPRIATIONS.**

23 There are authorized to be appropriated such sums
 24 as are necessary to carry out this Act.

1 **SECTION 1. SHORT TITLE.**

2 *This Act may be cited as the “Utah Recreational Land*
 3 *Exchange Act of 2008”.*

4 **SEC. 2. DEFINITIONS.**

5 *In this Act:*

6 (1) *FEDERAL LAND.*—*The term “Federal land”*
 7 *means the land located in Grand, San Juan, and*
 8 *Uintah Counties, Utah, that is identified on the maps*
 9 *as—*

10 (A) *“BLM Subsurface only Proposed for*
 11 *Transfer to State Trust Lands”;*

12 (B) *“BLM Surface only Proposed for*
 13 *Transfer to State Trust Lands”;* and

14 (C) *“BLM Lands Proposed for Transfer to*
 15 *State Trust Lands”.*

16 (2) *GRAND COUNTY MAP.*—*The term “Grand*
 17 *County Map” means the map prepared by the Bureau*
 18 *of Land Management entitled “Utah Recreational*
 19 *Land Exchange Act Grand County”, dated October 3,*
 20 *2007, and relating to the exchange of Federal land*
 21 *and non-Federal land in Grand and San Juan Coun-*
 22 *ties, Utah.*

23 (3) *MAPS.*—*The term “maps” means the Grand*
 24 *County Map and the Uintah County Map.*

25 (4) *NON-FEDERAL LAND.*—*The term “non-Fed-*
 26 *eral land” means the land in Grand, San Juan, and*

1 *Uintah Counties, Utah, that is identified on the maps*
 2 *as—*

3 (A) “*State Trust Land Proposed for Trans-*
 4 *fer to BLM*”; and

5 (B) “*State Trust Minerals Proposed for*
 6 *Transfer to BLM*”.

7 (5) *SECRETARY*.—*The term “Secretary” means*
 8 *the Secretary of the Interior.*

9 (6) *STATE*.—*The term “State” means the State*
 10 *of Utah, as trustee under the Utah State School and*
 11 *Institutional Trust Lands Management Act (Utah*
 12 *Code Ann. 53C-1-101 et seq.).*

13 (7) *UINTAH COUNTY MAP*.—*The term “Uintah*
 14 *County Map” means the map prepared by the Bureau*
 15 *of Land Management entitled “Utah Recreational*
 16 *Land Exchange Act Uintah County”, dated October*
 17 *3, 2007, and relating to the exchange of Federal land*
 18 *and non-Federal land in Uintah County, Utah.*

19 **SEC. 3. EXCHANGE OF LAND.**

20 (a) *IN GENERAL*.—*If the State offers to convey to the*
 21 *United States title to the non-Federal land, the Secretary*
 22 *shall—*

23 (1) *accept the offer; and*

24 (2) *on receipt of all right, title, and interest of*
 25 *the State in and to the non-Federal land, convey to*

1 *the State all right, title, and interest of the United*
 2 *States in and to the Federal land.*

3 *(b) CONDITIONS.—The exchange authorized under sub-*
 4 *section (a) shall be subject to—*

5 *(1) valid existing rights;*

6 *(2) except as otherwise provided by this Act—*

7 *(A) section 206 of the Federal Land Policy*
 8 *and Management Act of 1976 (43 U.S.C. 1716);*
 9 *and*

10 *(B) any other applicable laws; and*

11 *(3) any additional terms and conditions that the*
 12 *Secretary and the State mutually determine to be ap-*
 13 *propriate.*

14 *(c) TITLE APPROVAL.—Title to the Federal land and*
 15 *non-Federal land to be exchanged under this section shall*
 16 *be in a format acceptable to the Secretary and the State.*

17 *(d) APPRAISALS.—*

18 *(1) IN GENERAL.—The value of the Federal land*
 19 *and the non-Federal land shall be determined by ap-*
 20 *praisals conducted by 1 or more independent apprais-*
 21 *ers selected jointly by the Secretary and the State.*

22 *(2) APPLICABLE LAW.—The appraisals con-*
 23 *ducted under paragraph (1) shall be conducted in ac-*
 24 *cordance with section 206 of the Federal Land Policy*
 25 *and Management Act of 1976 (43 U.S.C. 1716).*

1 (3) *APPROVAL.*—*The appraisals conducted under*
 2 *paragraph (1) shall be submitted to the Secretary and*
 3 *the State for approval.*

4 (4) *ADJUSTMENT.*—

5 (A) *IN GENERAL.*—*If value is attributed to*
 6 *any parcel of Federal land because of the pres-*
 7 *ence of minerals subject to leasing under the*
 8 *Mineral Leasing Act (30 U.S.C. 181 et seq.), the*
 9 *value of the parcel (as otherwise established*
 10 *under this section) shall be reduced by the per-*
 11 *centage of the Federal revenue sharing with a*
 12 *State under section 35(a) of the Mineral Leasing*
 13 *Act (30 U.S.C. 191(a)).*

14 (B) *LIMITATION.*—*An adjustment under*
 15 *subparagraph (A) shall not be considered as a*
 16 *property right of the State.*

17 (5) *AVAILABILITY OF APPRAISALS.*—

18 (A) *IN GENERAL.*—*All final appraisals, ap-*
 19 *praisal reviews, and determinations of value for*
 20 *land to be exchanged under this Act shall be*
 21 *available for public review at the Utah State Of-*
 22 *fice of the Bureau of Land Management at least*
 23 *30 days before the conveyance of the applicable*
 24 *parcels.*

1 (B) *PUBLICATION.*—*The Secretary or the*
 2 *State, as applicable, shall publish in a news-*
 3 *paper of general circulation in Salt Lake Coun-*
 4 *ty, Utah, a notice that the appraisals are avail-*
 5 *able for public inspection.*

6 (e) *CONVEYANCE OF PARCELS IN PHASES.*—

7 (1) *IN GENERAL.*—*Notwithstanding that ap-*
 8 *praisals for all of the parcels of Federal land and*
 9 *non-Federal land may not have been approved under*
 10 *subsection (d)(3), parcels of the Federal land and*
 11 *non-Federal land may be exchanged under subsection*
 12 *(a) in 3 phases beginning on the date on which the*
 13 *appraised values of the parcels included in the appli-*
 14 *cable phase are approved under this subsection.*

15 (2) *PHASES.*—*The 3 phases referred to in para-*
 16 *graph (1) are—*

17 (A) *phase 1, consisting of the non-Federal*
 18 *land identified as “phase one” land on the*
 19 *Grand County Map;*

20 (B) *phase 2, consisting of the non-Federal*
 21 *land identified as “phase two” land on the*
 22 *Grand County Map and the Uintah County*
 23 *Map; and*

24 (C) *phase 3, consisting of any remaining*
 25 *non-Federal land that is not identified as “phase*

1 *one” land or “phase two” land on the Grand*
 2 *County Map or the Uintah County Map.*

3 (3) *NO AGREEMENT ON EXCHANGE.—If agree-*
 4 *ment has not been reached with respect to the ex-*
 5 *change of an individual parcel of Federal land or*
 6 *non-Federal land, the Secretary and the State may*
 7 *agree to set aside the individual parcel to allow the*
 8 *exchange of the other parcels of Federal land and non-*
 9 *Federal land to proceed.*

10 (4) *TIMING.—It is the intent of Congress that at*
 11 *least the first phase of the exchange of land authorized*
 12 *by subsection (a) be completed not later than 360*
 13 *days after the date on which the State makes the Sec-*
 14 *retary an offer to convey the non-Federal land under*
 15 *that subsection.*

16 (f) *RESERVATION OF INTEREST IN OIL SHALE.—*

17 (1) *IN GENERAL.—With respect to Federal land*
 18 *that contains oil shale resources, the Secretary shall*
 19 *reserve an interest in the portion of the mineral estate*
 20 *that contains the oil shale resources.*

21 (2) *EXTENT OF INTEREST.—The interest reserved*
 22 *by the United States under paragraph (1) shall con-*
 23 *sist of—*

24 (A) *50 percent of any bonus bid or other*
 25 *payment received by the State as consideration*

1 *for securing any lease or authorization to de-*
 2 *velop oil shale resources;*

3 *(B) the amount that would have been re-*
 4 *ceived by the Federal Government under the ap-*
 5 *plicable royalty rate if the oil shale resources had*
 6 *been retained in Federal ownership; and*

7 *(C) 50 percent of any other payment re-*
 8 *ceived by the State pursuant to any lease or au-*
 9 *thorization to develop the oil shale resources.*

10 *(3) PAYMENT.—Any amounts due under para-*
 11 *graph (2) shall be paid by the State to the United*
 12 *States not less than quarterly.*

13 *(4) NO OBLIGATION TO LEASE.—The State shall*
 14 *not be obligated to lease or otherwise develop oil shale*
 15 *resources in which the United States retains an inter-*
 16 *est under this subsection.*

17 *(5) VALUATION.—Federal land in which the Sec-*
 18 *retary reserves an interest under this subsection shall*
 19 *be appraised—*

20 *(A) without regard to the presence of oil*
 21 *shale; and*

22 *(B) in accordance with subsection (d).*

23 *(g) WITHDRAWAL OF FEDERAL LAND PRIOR TO EX-*
 24 *CHANGE.—Subject to valid existing rights, during the pe-*
 25 *riod beginning on the date of enactment of this Act and*

1 ending on the earlier of the date that the Federal land is
 2 removed from the exchange or the date on which the Federal
 3 land is conveyed under this Act, the Federal land is with-
 4 drawn from—

5 (1) disposition (other than disposition under sec-
 6 tion 4) under the public land laws;

7 (2) location, entry, and patent under the mining
 8 laws; and

9 (3) the operation of—

10 (A) the mineral leasing laws;

11 (B) the Geothermal Steam Act of 1970 (30
 12 U.S.C. 1001 et seq.); and

13 (C) the first section of the Act of July 31,
 14 1947 (commonly known as the “Materials Act of
 15 1947”) (30 U.S.C. 601).

16 (h) *APPURTENANT WATER RIGHTS*.—Any conveyance
 17 of a parcel of Federal land or non-Federal land under this
 18 Act shall include the conveyance of water rights appur-
 19 tenant to the parcel conveyed.

20 (i) *EQUAL VALUE EXCHANGE*.—

21 (1) *IN GENERAL*.—The value of the Federal land
 22 and non-Federal land to be exchanged under this
 23 Act—

24 (A) shall be equal; or

1 *(B) shall be made equal in accordance with*
 2 *paragraph (2).*

3 *(2) EQUALIZATION.—*

4 *(A) SURPLUS OF FEDERAL LAND.—If the*
 5 *value of the Federal land exceeds the value of the*
 6 *non-Federal land, the value of the Federal land*
 7 *and non-Federal land shall be equalized, as de-*
 8 *termined to be appropriate and acceptable by the*
 9 *Secretary and the State—*

10 *(i) by reducing the acreage of the Fed-*
 11 *eral land to be conveyed; or*

12 *(ii) by adding additional State land to*
 13 *the non-Federal land to be conveyed.*

14 *(B) SURPLUS OF NON-FEDERAL LAND.—If*
 15 *the value of the non-Federal land exceeds the*
 16 *value of the Federal land, the value of the Fed-*
 17 *eral land and non-Federal land shall be equal-*
 18 *ized by reducing the acreage of the non-Federal*
 19 *land to be conveyed, as determined to be appro-*
 20 *priate and acceptable by the Secretary and the*
 21 *State.*

22 *(3) NOTICE AND PUBLIC INSPECTION.—*

23 *(A) IN GENERAL.—If the Secretary and the*
 24 *State determine to add or remove land from the*
 25 *exchange, the Secretary or the State shall—*

1 (i) publish in a newspaper of general
 2 circulation in Salt Lake County, Utah, a
 3 notice that identifies when and where a re-
 4 vised exchange map will be available for
 5 public inspection; and

6 (ii) transmit to the Committee on Nat-
 7 ural Resources of the House of Representa-
 8 tives and the Committee on Energy and
 9 Natural Resources of the Senate a copy of
 10 the revised exchange map.

11 (B) *LIMITATION.*—The Secretary and the
 12 State shall not add or remove land from the ex-
 13 change until at least 30 days after the date on
 14 which the notice is published under subpara-
 15 graph (A)(i) and the map is transmitted under
 16 subparagraph (A)(ii).

17 **SEC. 4. STATUS AND MANAGEMENT OF LAND AFTER EX-**
 18 **CHANGE.**

19 (a) *ADMINISTRATION OF NON-FEDERAL LAND.*—

20 (1) *IN GENERAL.*—Subject to paragraph (2) and
 21 in accordance with section 206(c) of the Federal Land
 22 Policy and Management Act of 1976 (43 U.S.C.
 23 1716(c)), the non-Federal land acquired by the United
 24 States under this Act shall become part of, and be

1 *managed as part of, the Federal administrative unit*
 2 *or area in which the land is located.*

3 (2) *MINERAL LEASING AND OCCUPANCY.—*

4 (A) *IN GENERAL.—Subject to valid existing*
 5 *rights, the non-Federal land acquired by the*
 6 *United States under this Act shall be withdrawn*
 7 *from the operation of the mineral leasing laws*
 8 *until the later of—*

9 (i) *the date that is 2 years after the*
 10 *date of enactment of this Act; or*

11 (ii) *the date on which the Record of*
 12 *Decision authorizing the implementation of*
 13 *the applicable resource management plans*
 14 *under section 202 of the Federal Land Pol-*
 15 *icy and Management Act of 1976 (43*
 16 *U.S.C. 1712) is signed.*

17 (B) *EXCEPTION.—Any land identified on*
 18 *the maps as “Withdrawal Parcels” is withdrawn*
 19 *from the operation of the mineral leasing and*
 20 *mineral material disposal laws.*

21 (3) *RECEIPTS.—*

22 (A) *IN GENERAL.—Any mineral receipts de-*
 23 *rived from the non-Federal land acquired under*
 24 *this Act shall be paid into the general fund of the*
 25 *Treasury.*

1 (B) *APPLICABLE LAW.*—*Mineral receipts*
 2 *from the non-Federal land acquired under this*
 3 *Act shall not be subject to section 35 of the Min-*
 4 *eral Leasing Act (30 U.S.C. 191).*

5 (b) *GRAZING PERMITS.*—

6 (1) *IN GENERAL.*—*If land conveyed under this*
 7 *Act is subject to a lease, permit, or contract for the*
 8 *grazing of domestic livestock in effect on the date of*
 9 *acquisition, the Secretary and the State shall allow*
 10 *the grazing to continue for the remainder of the term*
 11 *of the lease, permit, or contract, subject to the related*
 12 *terms and conditions of user agreements, including*
 13 *permitted stocking rates, grazing fee levels, access*
 14 *rights, and ownership and use of range improvements.*

15 (2) *RENEWAL.*—*To the extent allowed by Federal*
 16 *or State law, on expiration of any grazing lease, per-*
 17 *mit, or contract described in paragraph (1), the hold-*
 18 *er of the lease, permit, or contract shall be entitled to*
 19 *a preference right to renew the lease, permit, or con-*
 20 *tract.*

21 (3) *CANCELLATION.*—

22 (A) *IN GENERAL.*—*Nothing in this Act pre-*
 23 *vents the Secretary or the State from canceling*
 24 *or modifying a grazing permit, lease, or contract*
 25 *if the land subject to the permit, lease, or con-*

1 tract is sold, conveyed, transferred, or leased for
 2 nongrazing purposes by the Secretary or the
 3 State.

4 (B) *LIMITATION.*—*Except to the extent rea-*
 5 *sonably necessary to accommodate surface oper-*
 6 *ations in support of mineral development, the*
 7 *Secretary or the State shall not cancel or modify*
 8 *a grazing permit, lease, or contract because the*
 9 *land subject to the permit, lease, or contract has*
 10 *been leased for mineral development.*

11 (4) *BASE PROPERTIES.*—*If land conveyed by the*
 12 *State under this Act is used by a grazing permittee*
 13 *or lessee to meet the base property requirements for a*
 14 *Federal grazing permit or lease, the land shall con-*
 15 *tinue to qualify as a base property for the remaining*
 16 *term of the lease or permit and the term of any re-*
 17 *newal or extension of the lease or permit.*

18 (c) *HAZARDOUS MATERIALS.*—

19 (1) *IN GENERAL.*—*The Secretary and, as a con-*
 20 *dition of the exchange, the State shall make available*
 21 *for review and inspection any record relating to haz-*
 22 *ardous materials on the land to be exchanged under*
 23 *this Act.*

24 (2) *COSTS.*—*The costs of remedial actions relat-*
 25 *ing to hazardous materials on land acquired under*

1 *this Act shall be paid by those entities responsible for*
2 *the costs under applicable law.*

3 (d) *EASEMENT.*—*The conveyance of Federal land in*
4 *sec.33, T. 4 S., R. 24 E., and sec. 4, T. 5 S., R. 24 E.,*
5 *of the Salt Lake Meridian, shall be subject to a 1,000 foot*
6 *wide scenic easement and a 200 foot wide road right-of-*
7 *way previously granted to the National Park Service for*
8 *the Dinosaur National Monument, as described in Land*
9 *Withdrawal No. U-0141143, pursuant to the Act of Sep-*
10 *tember 8, 1960 (74 Stat. 857,861).*

11 **SEC. 5. AUTHORIZATION OF APPROPRIATIONS.**

12 *There are authorized to be appropriated such sums as*
13 *are necessary to carry out this Act.*

Calendar No. 973

110TH CONGRESS
2^D Session

S. 390

A BILL

To direct the exchange of certain land in Grand, San Juan, and Uintah Counties, Utah, and for other purposes.

SEPTEMBER 16, 2008

Reported with an amendment